IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO.3336 OF 2004

Ciba India Private Limited .. Petitioner

v/s.

A.M.Jadhav, I.T.O. 9(1)-3,
Mumbai and ors. .. Respondents

Mr.F.B.Irani with Mr.Damodar i/by M/s. Kanga & Co.
for petitioner.

Mr.R.V.Desai with Ms.S.V.Bharucha for respondents.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 22nd December, 2004

P.C.

Heard.

2. In GKN Driveshafts (India) Ltd. v. Income-Tax Officer and ors., 259 ITR 19, the Supreme Court held thus-

> "We see no justifiable reason to interfere with the order under challenge. However, we clarify that when a notice under section 148 of the Income-tax Act is issued, the proper course of action for the noticee is to file a return and if he so desires, to seek reasons for issuing notices. The Assessing Officer is bound to furnish reasons within a reasonable time. On receipt of reasons, the noticee is entitled to file objections to issuance of notice and the Assessing Officer is bound to dispose of the same by passing a speaking order. In the instant case, as the reasons have been disclosed in these proceedings, the Assessing Officer has to dispose of the objections, if filed, by

passing a speaking order, before proceeding with the assessment in respect of the abovesaid five assessment years."

3. We are informed that the reasons have been disclosed to the petitioner. Looking to the aforesaid judgment of the Supreme court in GKN Driveshafts (India) Ltd. v. Income-Tax Officer and ors., we are of the view that the petitioner should file objections to the issuance of notice and the reasons disclosed and the assessing officer must pass the speaking order before proceeding with the assessment for assessment year 1999-2000.

4. We, accordingly, dispose of the writ petition by following order:-

i) The petitioner shall file objections to the notice under section 148 of the Income Tax Act, 1961 dated 14.5.2004 and the reasons disclosed for issuance of said notice within three weeks from today.

ii) We direct the assessing officer (respondent No.1) to dispose of the said objections by speaking order.

iii) Until the objections are disposed of by the respondent No.1 by speaking

order and for a period of two weeks from the date of service of that order, no final reassessment order shall be passed by the assessing officer for the assessment year 1999-2000.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)